



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CHECKPOINT SYSTEMS, INC.	:	
	:	
Plaintiff,	:	
	:	CIVIL ACTION NO.
v.	:	01-CV-2223 (PBT)
	:	
ALL-TAG SECURITY S.A., ALL-TAG	:	
SECURITY AMERICAS, INC.,	:	
SENSORMATIC ELECTRONICS	:	
CORPORATION, and KOBE PROPERTIES	:	
SARL,	:	
	:	
Defendants.	:	

**MOTION TO LIFT STAY AND  
TAX COSTS REQUESTED IN CHECKPOINT’S SECOND BILL OF COSTS**

Checkpoint Systems, Inc. (“Checkpoint”), respectfully moves this Court for an Order lifting the stay in this matter, taxing costs against Defendants in the full amount requested by Checkpoint’s Second Bill of Costs [Dkt. No. 382], and entering Judgment against Defendants jointly and severally in the amount of \$276,164.64. In support of this Motion, Checkpoint states as follows:

1. On December 21, 2015, this Court entered a Judgment against Checkpoint in the amount of \$10,265,369.84. [Dkt. No. 372.] On December 30, 2015, Checkpoint filed a notice of appeal to the United States Court of Appeals for the Federal Circuit. [Dkt. No. 374.]
2. On June 5, 2017, the Federal Circuit reversed the Judgment in its entirety. [Dkt. No. 380.]
3. On June 19, 2017, Checkpoint filed its Second Bill of Costs in this Court. [Dkt. No. 382.] Checkpoint’s Second Bill of Costs seeks to tax costs of \$273,446 against Defendants comprising of (1) \$153,980 in premiums that Checkpoint paid on a supersedeas bond

to stay execution of the Judgment pending its appeal to the Federal Circuit; (2) \$505 for the filing fee and docketing fee Checkpoint paid for its appeal; and (3) \$118,961 that Checkpoint submitted in its previously-filed April 5, 2013 Bill of Costs [Dkt. No. 323], which remains pending before this Court.

4. Also on June 19, 2017, Checkpoint filed its Bill of Costs in the Federal Circuit seeking \$2,718.64 in copying costs for its appellate briefs and appendices. [Fed. Cir. 16-1397, Dkt. No. 60]

5. On July 3, 2017, Defendants filed objections to Checkpoint's Second Bill of Costs in this Court. [Dkt. No. 383.] Defendants objected to "any costs being taxed at this time" because Defendants were in the process of preparing a petition for a writ of certiorari with the United States Supreme Court. *Id.* ¶¶ 5-8. Defendants argued that "[a]ny ruling should not be made until all appeals have been exhausted, that is, until after Defendants' petition and appeal to the Supreme Court have been conclusively determined." *Id.* ¶ 8 (emphasis in original). Defendants also argued that Checkpoint should not be reimbursed for premiums it paid on the supersedeas bond because Defendants never required Checkpoint to post a bond. *Id.* ¶ 9. Finally, Defendants argued that Checkpoint included the \$118,961 in costs that it incurred in appealing the Court's prior award that was vacated by the Federal Circuit. *Id.* ¶ 10.

6. Defendants made the same objections to the Federal Circuit and filed a Motion for Miscellaneous Relief Requesting the Court Deny Costs Pursuant to Rule 39 [Fed. Cir. No. 16-1397, Dkt. Nos. 61, 62]. In their Motion, Defendants again argued that Checkpoint's Second Bill of Costs in this Court "includes \$153,980.00 for premiums for a supersedeas bond pending this appeal and \$118,506.00 in costs for the supersedeas bond in the first appeal to this Court on the attorney fees award." [Fed. Cir. No. 16-1397, Dkt. No. 62 ¶ 4 (emphasis in

original).] Defendants also similarly argued that they never required Checkpoint to post a bond. *Id.* ¶¶ 9-10.

7. Checkpoint filed a response to Defendants’ objections in this Court [Dkt. No. 384] and a response to Defendants’ Motion in the Federal Circuit [Fed. Cir. No. 16-1397, Dkt. No. 63].

8. On August 31, 2017, the Federal Circuit ruled on the Bill of Costs that Checkpoint filed with the Federal Circuit. [Fed. Cir. No. 16-1397, Dkt. No. 65, also filed with this Court at Dkt. No. 387-1.] The Federal Circuit rejected Defendants’ argument that it did not award costs to Checkpoint, rejected Defendants’ argument that Checkpoint was not entitled to reimbursement for premiums paid for its supersedeas bond, and rejected Defendants’ argument that Defendants never required Checkpoint to post a bond. *Id.* Thus, the Federal Circuit held: “On the record and in accordance with the Rules, Checkpoint is entitled to include in its taxable costs the premiums paid for the bond.” *Id.*

9. The same day, the Federal Circuit issued its Mandate to this Court taxing Defendants the full \$2,718.64 requested by Checkpoint’s Bill of Costs in the Federal Circuit. [Dkt. No. 386.]

10. Checkpoint’s Second Bill of Costs in this Court is fully briefed. [Dkt. Nos. 382, 383, 384, and 387.] However, on August 16, 2017, the Court stayed this matter pursuant to Defendants’ forthcoming petition for a writ of certiorari in the United States Supreme Court. [Dkt. No. 385.]

11. Defendants filed their petition for a writ of certiorari on October 3, 2017. On January 8, 2018, the United States Supreme Court denied Defendants’ petition for a writ of certiorari. A copy of the Supreme Court’s denial is attached hereto as Exhibit A.

12. Defendants have now exhausted all appeals, and Defendants' petition and appeal to the Supreme Court have been conclusively determined. Accordingly, it is proper for the Court to now tax costs against Defendants pursuant to Checkpoint's Second Bill of Costs.

13. Checkpoint respectfully requests that costs be taxed and that Judgment be entered against Defendants jointly and severally in the amount of \$276,164.64—comprising of the \$273,446 sought by Checkpoint's Second Bill of Costs [Dkt. No. 382] and the \$2,718.64 already taxed by the Federal Circuit [Dkt. No. 386].

WHEREFORE, based on the foregoing, Checkpoint Systems, Inc. respectfully requests that this Court enter an Order lifting the stay in this matter, taxing costs against Defendants in the full amount requested by Checkpoint's Second Bill of Costs [Dkt. No. 382], and entering Judgment against Defendants jointly and severally in the amount of \$276,164.64.

January 29, 2018

/s/ Anand C. Mathew

One of the attorneys for Plaintiff Checkpoint Systems, Inc.

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**CERTIFICATE OF SERVICE**

I, Anand C. Mathew, an attorney, certify that on January 29, 2018, I caused a true and correct copy of the foregoing to be served via email upon the following:

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